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## **Minutes of the Commission Meeting Held on April 12, 2007 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E - Edgartown)	P Doug Sederholm (E – Chilmark)
- Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	- Paul Strauss (County Comm. Rep.)
P Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Jim Miller (Traffic Analyst), Bill Wilcox (Water Planner)

The meeting was called to order at 7:15 p.m.

### **1. FISCHER FARM: DRI NO. 34M – DELIBERATION & DECISION**

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Commissioners present: J. Breckenridge, C. Brown, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L Sibley, R Toole. A. Woodruff

**Jim Athearn** recused himself and left the room.

#### **1.1 Deliberation**

**Christina Brown moved, and it was duly seconded, to approve the application as presented, with the following conditions.**

- **Any landscaping around the house within the building envelope shall be submitted to and is subject to the review of LUPC, and should be designed to screen and soften the public view of the proposed house from the pond.**
- **No structure shall be no higher than 18 feet**
- **The offers are accepted except.**
- **Outside the building envelope, the presently open field shall be kept as natural pasture. The wooded area and vegetated buffer along the edge of the pond shall be maintained.**
- **The septic system shall include an advanced treatment system.**

**Chris Murphy** asked staff to show some alternate siting for the building envelope.

**Linda Sibley** said the proposed building envelope is entirely in the field, and wouldn't allow the future owner to build close to or in the woods. Best development practices usually call for building in or near woods, not in the open.

**Mark London** explained two options of moving the development area closer to the woods or into the woods.

- The envelope proposed by applicant has a 200' setback facing Short Cove, and 500' from the main part of the pond.
- The first option keeps essentially the same envelope but slides the end into the woods by reducing the side setback from 200' to 100' and increasing the setback from the main part of the pond to 150'.
- The second option is for a smaller envelope almost completely in the woods.

Construction in the 50-foot setback to the abutting property could be possible if agreed to by the abutter and the Town.

**Doug Sederholm** observed that with the 500-foot setback, there is a good view of the barrier beach and dunes. Moving back another 200 feet, the view is still great but you can't see the barrier beach anymore.

**Linda Sibley** said she would like to see the development envelope pulled back, not necessarily into the woods. If it were pulled back much closer to the road and there was landscaping to soften the visual impact of the house from the water, it would be an improvement. The view across the Great Pond would remain unchanged if the building envelope were moved.

**John Breckenridge** expressed concern about the proposed building envelopes actually meeting setback requirements.

**Andrew Woodruff** said if the site were more wooded, he wouldn't be so concerned with the development area placement. He suggested that if the mowed area along the cove were allowed to revegetate, the site might not be so open.

**Christina Brown** said the option of placing the development area in the woods is unrealistic for a number of reasons and suggested that the Commission only consider the option of half in and half out of the woods.

- One resource the Commission is charged to protect is open vistas to the ponds.
- Another is the wetlands. The DCPC buffer is 100 feet, although many towns use 200 feet.
- For visual impact, she likes the alternative of setting the site further back but is concerned with changing the buffer from 200 to 100 feet. A wide band along the shore provides a wildlife corridor for movement of animals.

**John Breckenridge** said he's concerned about the setback along the shore; from that point of view, 200 feet is better.

**Linda Sibley** said there could be a development envelope and a building envelope.

**Chris Murphy** said the Commission would be remiss to allow the house to be placed in the middle of the field. His proposal would be go with the woods proposal with intense screening, with the goal of protecting the public interest and meeting the needs of the applicant.

**Jim Powell** said he is concerned that if the building envelope is pushed all the way back, other issues are raised. The first alternative with the 700-foot setback is the most moderate choice.

**Mimi Davisson** said her preference is the first alternative. She wondered if the Commission could consider a floating envelope, depending upon Conservation Commission and other considerations. The envelope would stay constant in size but where it lands could be flexible.

**Richard Toole** said he has a problem moving the envelope 100 feet closer to the side cove. The environment seems to be more important than the visual impact and moving the house closer to the side cove impacts the view from the water.

**Kathy Newman** supports keeping the site away from the wetlands. She likes the idea of keeping the site 'floating'.

**Susan Shea** said she believes there is a compromise and supports Chris Murphy's point of view.

**John Breckenridge** proposed the first alternative with a modification that creates a 100-foot setback for the development envelope and a 150-foot setback for the building envelope. The distinction being that the house would be 150 feet back, landscaping would be 100 feet. He clarified that the 150-foot setback would be for all buildings.

**Linda Sibley** said the Commission could require that the applicant come back with the final plan as John Breckenridge described. The property line could be jiggled to meet criteria.

**Christina Brown** asked for clarification on what the Commission is trying to accomplish. If the house is back by the trees, it's similar to the other houses in the area. If the landscape plan has to come back to LUPC, the Commission could see that the house would be screened.

**Doug Sederholm** said the values the Commission has to consider are protection of the public vista, protection of the wetlands, and protection of the applicants' right to gain income from the property and protect the farm. He said he doesn't want to impair the proposal in a way that's going to impair the value of the property and, in relation to that, is concerned with moving the envelope all the way into the woods.

***John Breckenridge moved, and it was duly seconded, to establish a development envelope no closer than 100 feet and a building envelope no closer than 150 feet from Short Cove, and no closer than 700 feet from Tisbury Great Pond.***

- **Christina Brown** said that the 150 feet doesn't accomplish a lot and might be more restrictive than intended.
- **Linda Sibley** said the original building envelope would interfere with using the lot for farmland. This second proposal allows for a house with a great view and allows preservation of farmland.
- **Andrew Woodruff** said it's hard to weigh the benefits and detriments when he's not seeing the land with future proposals. He understands the motion, but he feels it doesn't give enough space.
- **Linda Sibley** said the applicant could work with its planners for a specific design, and come back to the Commission if the condition needs to be modified.

- **Chris Murphy** said the motion essentially gives the applicant guidelines and doesn't define the envelope.

**A raised hand vote was taken. In favor: 8. Opposed: 3. Abstentions: 1. The motion passed.**

**Andrew Woodruff** suggested a condition to clarify the landscaping language.

**Christina Brown proposed language for a condition that landscaping soften the view from the water and minimize the visual impact of the building structure. Commissioners agreed to the condition.**

Commissioners discussed the 18-foot height restriction and concerns about whether the limit might restrict construction of an agricultural structure like a barn. It was noted that a future owner could return to the Commission with a proposal for a change in conditions, and the Commission could make this decision without necessarily holding a public hearing.

**Mark London** noted that West Tisbury by-law limits height in fields to 18 feet and in wooded areas to 24 feet. This would serve as an incentive to place at least part of the building in the woods. He asked whether the intention of the Commission is to limit height in the wooded area to 18 feet.

**Christina Brown moved to drop the condition and let West Tisbury zoning by-laws determine the height restrictions. Commissioners agreed by consensus.**

The applicant agreed with dropping the height restriction condition.

**Christina Brown moved that presently mown area shall be kept in hayfield pasture but those areas outside the presently mowed area, including but not limited to the wooded area and wetland area, shall remain in their natural vegetative state. Commissioners agreed to the condition.**

**Linda Sibley** clarified that anything outside the building envelope must remain in its natural vegetative state.

**John Breckenridge moved that, outside the development envelope, any fencing shall be in keeping with the style of a common type of agricultural fencing. Commissioners agreed to the condition.**

**Mimi Davisson** asked if the Commission has any interest in the architectural style of the building.

**Christina Brown** said she has no interest in that. By moving the building envelope, a building will be against the wooded backdrop and the owner would have to present its landscape plan to deal with visual impact.

**John Breckenridge** asked about night lighting, for example for tennis courts. **Christina Brown** suggested a lighting plan that shows minimum outdoor lighting for safety but minimum impact on the night sky.

**Linda Sibley** believes that people should be able to light their tennis courts, pools or basketball courts up to a reasonable hour. Families should be allowed to do recreational things in the evening.

**Jim Powell** pointed out that agricultural lighting might be allowed and that the West Tisbury by-laws should be able to handle night lighting requirements.

***It was moved that exterior lighting shall be designed to be in keeping with the general philosophy of minimizing the impact on the surroundings.***

***Commissioners agreed to the condition, with one vote in opposition.***

***Commissioners agreed to apply the standard condition regarding organic, slow release fertilizers and pesticides to the entire parcel.***

**Andrew Woodruff** expressed concern about docks on the Great Pond. He wondered how docks would be addressed by West Tisbury zoning. Docks are addressed through the conservation commission. A floating dock might be allowed.

***Andrew Woodruff suggested a condition that there be no permanent dock, only a floating dock. Commissioners agreed to the condition, with one vote in opposition.***

## **1.2 Benefits and Detriments**

Commissioners summarized the benefits, namely the maintenance of a wildlife corridor, the maintenance of agricultural land, de-nitrification of the wastewater through an advanced treatment system, and the use of slow-release fertilizer. The lot will add to the tax base. The subdivision conforms to state and local objectives by supporting farming and open vistas.

**Richard Toole** said any house built here would provide jobs and he wondered why the applicant wouldn't be required to contribute to an affordable housing fund. **Chris Murphy** noted that in the fall, the applicant will come back with a comprehensive plan for the entire property at which time affordable housing should be addressed.

## **1.3 Decision**

***A roll call vote was taken on the motion to approve the application with conditions. In favor: J. Breckenridge, C. Brown, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L Sibley, R Toole, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.***

**Andrew Woodruff** said that one of the pitfalls of the tax code is what it does to working family farms in rural areas, particularly those that are under tremendous financial pressure as is this farm in one of the most valuable towns in the Commonwealth. He appreciates the struggles that the family deals with.

**Christina Brown** thanked the Fischers for all the people who can go to the pond and see the wonderful fields.

**Susan Shea** agrees with Andrew Woodruff and it breaks her heart that they have to break up the land to keep it.

**Doug Sederholm** thanked the applicants and Glenn Provost.

## **2. PUBLIC HEARINGS FOR TISBURY PROJECTS**

**Linda Sibley** had a point of order. The Tisbury Town Meeting was extended to tonight. All three of the scheduled public hearings are in Tisbury. She suggested that each of the public hearings be continued without taking testimony, unless members of the public come to testify and wouldn't be available again. In that case, those hearings could be opened specifically for their testimony. She said it's an important matter of principle. The town in which these projects are proposed is having an important public meeting.

**Linda Sibley moved, and it was duly seconded, that the public hearings for the Yacht Club, Cronig's, and 18 State Road be postponed. If members of the public came to testify and wouldn't be able to attend a future meeting, the hearing could be opened to specifically take their testimony. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

The public hearings for 18 State Road and Cronig's will be continued to April 26.

## **3. CRONIG'S MARKET: DRI 321 – PUBLIC HEARING**

*Commissioners present:* J. Athearn, J. Breckenridge, C. Brown, M. Davisson, M. Morris, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L Sibley, R Toole, A. Woodruff.

**Steve Bernier** said he would like his application put on hold until Paul Foley can reschedule it.

**Chris Murphy** opened the public hearing.

**John Breckenridge moved, and it was duly seconded, to continue the public hearing without taking testimony until April 26<sup>th</sup> at 7:30 p.m. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

## **4. 18 STATE ROAD: DRI 593 – PUBLIC HEARING**

*Commissioners present:* J. Athearn, J. Breckenridge, C. Brown, M. Davisson, M. Morris, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L Sibley, R Toole. A. Woodruff

**Chris Murphy** opened the public hearing.

**Christina Brown moved, and it was duly seconded, to continue the public hearing without taking testimony until April 26<sup>th</sup> at 8:00 p.m. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

Commissioners took a short recess.

## **5. OTHER**

### **5.1 Island Plan Steering Committee**

**Mark London** updated Commissioners on recent work of the Island Plan Steering Committee.

- Each of the work groups is starting to get results, compiling proposed goals, strategies, and objectives. They're each in the middle of a series of working meetings on different

topics. Housing is having a meeting on elderly and assisted housing. Livelihood and Economy is having a meeting on local currency.

- Within the Steering Committee, there is a Development Management and Land Use study group.
- A neighborhood survey will be launched April 28<sup>th</sup> at the Living Local event.
- The Steering Committee agreed on the basic plan for the summer outreach program. The plan is to organize the summer in two week blocks focused on each of the five work group topics and a sixth topic of development management and land use. The focus will be public outreach with a forum during the second week of the block.
- The week after the Agricultural Fair, there will be a big meeting with interesting panel members talking about development issues.

## **5.2 High School Area Wastewater Facility**

The majority of Oak Bluffs voters voted for the high school area wastewater facility but not enough for the two-thirds majority that was necessary for approval. There may have been a lack of information on location and impacts.

## **5.3 Energy DCPC**

The Energy DCPC passed in a number of towns, but hasn't been voted on in Tisbury or Edgartown.

## **5.4 LUPC**

**Christina Brown** said LUPC would be looking at the DRI checklist on April 23<sup>rd</sup>.

## **5.5 Site Visits**

May 2 @ 5:00, May 3 @ 8:30      Middle Line Road Site Visit; the applicant should stake the centerline of the road and the center point of the buildings.

## **6. VINEYARD HAVEN YACHT CLUB**

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*Commissioners present: J. Athearn, J. Breckenridge, C. Brown, M. Davisson, M. Morris, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L Sibley, R Toole. A. Woodruff*

**Chris Murphy** opened the public hearing. He proposed to continue the public hearing without taking testimony unless there were members of the public who would not be able to return and testify on April 26, when the hearing would be continued.

**Sam Busselle** drove all the way from New York for this hearing and was allowed to testify.

- His family has had a house near the Yacht Club for sixty years.
- The Yacht Club has grown exponentially. The snack club and three tennis courts are in constant use. Many boats are stored on the beach, with additional sheds and storage racks. Despite the growth, his family has seen the Yacht Club as an asset.
- In light of the proposed building, he submits the following issues to be addressed:

- Traffic and parking on Owen Little Way – the proposal reduces parking by 25% and increases membership by 10%. The existing conditions are hazardous
- Noise is an issue. Social events are more frequent, extending events into the evening, straining neighborhood issues.
- Landscaping should be more sensitive and lighting should be minimal.
- Storage in the shoulder season is an issue.
- The residents of Owen Little Way know that the Yacht Club is a vital part of the neighborhood and they trust that with mutual goodwill, all should be able to prosper.


**Fain Hackney**, the son of Lucy and Sheldon Hackney, submitted a letter. He is at the meeting on behalf of his parents, not as an attorney.

- Activities and traffic have increased. The project is not just a new building but potentially an increase in the associated activities.
- The building itself is on a beach, in a residential area, in a flood zone, next to the Town beach.
- He described the way the neighborhood is impacted by the Yacht Club.
- He hopes that the Yacht Club would be willing to sit down with the neighbors and work out some of the issues, such as screening, so that some of the concerns are actually addressed.

**Lucy Hackney** said she has had very nice conversations with the Yacht Club about such issues as screening, but the improvements haven't been made.

**Chris Murphy** continued the public hearing to April 26<sup>th</sup> at 8:30 p.m.

The meeting adjourned at 9:45 p.m.

  
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 Chairman

8/23/07  
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 Date

  
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 Clerk-Treasurer

8/23/07  
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